

## REMARKS

### I. OVERVIEW:

Applicants have reviewed and considered the Office Action dated August 8, 2006.

Applicants thank the Examiner for the courtesy extended during the telephonic interview and her decision to withdraw the restriction requirement. Claims 36-43 have been amended so that they recite "[A] or [T]he pharmaceutical composition" rather than "A method for providing a composition". Support for these amendments may be found throughout the specification, for example, at page 1, lines 4-5. Claims 44 and 45 have been canceled. Upon entry of the foregoing amendments, claims 1-43 are pending in the instant application. Applicants respectfully request reconsideration of the above-identified application in view of the amendments above and remarks that follow.

### II. CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 1-45 stand rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by Shackelford et al. (DNA repair, 2003). The Examiner states that Shackelford discloses a method of treating AT by administering to individuals (animals or cells) a therapeutically amount of a chelating agent (Desferrioxamine) and an antioxidant (t-butyl hydroperoxide).

As an initial matter, claims 44 and 45 have been canceled. Applicants respectfully submit that the use of Shackelford et al. is not proper as Shackelford et al. is the Applicants' own work. Although Shackelford et al. list contributors in addition to Applicants, a rejection under § 102(a) may still be overcome by establishing the portions of the reference pertinent to the claimed invention describe Applicants' own work. In re Katz, 215 U.S.P.Q. 14 (C.C.P.A. 1982). In the declaration under 37 CFR § 1.132 (attached as exhibit A), Applicant Dr. Suming Wang states

that co-authors', Ryan P. Manuszak, Cybele D. Johnson, Daniel J. Hellrung, Timothy A. Steele and Charles J. Link, assistance did not amount to an inventive contribution of the claimed invention of the present application. Ryan P. Manuszak, Cybele D. Johnson, Daniel J. Hellrung, and Timothy A. Steele performed experiments disclosed in Shackelford et al. under the guidance of Dr. Suming Wang and Dr. Rodney Shackelford. Ryan P. Manuszak, Cybele D. Johnson, Daniel J. Hellrung, Timothy A. Steele were technicians in Dr. Wang and Dr. Shackelford's laboratory and carried out experiments under Dr. Wang and Dr. Shackelford's direct supervision and control. Thus, in light of the 1.132 Declaration, Shackelford et al. cannot serve as prior art reference in a rejection of the pending claims under § 102(a). Accordingly, Applicants respectfully request that the rejection of claims 36-43 be withdrawn and reconsidered.

### III. CLAIM REJECTIONS - 35 U.S.C. § 112

Claims 36-45 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states, as described in the instant specification, applicants' invention relates to the use of certain chelating agents and to pharmaceutical compositions containing one of these novel chelating agents to treat AT. Instant claim 36 is directed to "a method for providing a composition ...". Said method is not applicants' invention and the claims are therefore indefinite because applicants fail to claim what they regard as the invention. Claims 37-45 are rendered indefinite for the same reason.

Applicants have amended independent claim 36 so that it now recites "A pharmaceutical composition" rather than "A method for providing a composition". Likewise, dependent claims 37-43 have been amended to recite the appropriate antecedent bases. Support for these

amendments may be found throughout the specification, for example, at page 1, lines 4-5. Claims 44 and 45 have been canceled. Applicants believe they have alleviated the Examiner's concerns and, accordingly, Applicants respectfully request that the rejection of claims 36-43 be withdrawn and reconsidered.

#### IV. CONCLUSION

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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Enclosure: 132 Declaration